



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 10, 2006

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Lyle, Mueller

ABSENT: Escobar

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson

Chair Lyle called the meeting to order at 7:03 p.m., and led the flag salute.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

The opportunity for comment of items not appearing on the agenda was opened by Chair Lyle as he called attention to the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan Training Session. Chair Lyle explained the information had been noticed as a collaborative effort of several agencies (including the City of Morgan Hill) to prepare a Habitat Conservation Plan/Natural Community Conservation Plan.

CDD Molloy Previsich urged the Commissioners to attend and be part of the planning regarding species mitigation strategies. CDD Molloy Previsich explained this strategy is intended to provide a much more comprehensive approach to streamlining projects seen by the Planning Commission.

Commissioner Mueller commented that he hoped the habitat preserved would be Santa Clara County as the species should be preserved locally.

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

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MINUTES:

**DECEMBER 13,
2005**

The December 13, 2005 minutes will be considered at the January 24, 2006 meeting.

**1) DAA-04-09: E.
DUNNE-DELCO**

A request to amend an approved development agreement for a 36-unit portion of a 78-unit single-family home project to be located at 420 and 530 E. Dunne Ave., fronting the southwest corner of E. Dunne Ave. and San Benancio Wy. The amendment request is to extend the development schedule to allow for additional time to submit and obtain building permits.

SP Linder gave the staff report, noting the location of the proposed development as she explained this is to be the first phase of the 34 lots containing 36 units. The applicant is requesting an extension of time for submitting and obtaining eight of the 36 building permits, due to a 'misunderstanding of the process'. SP Linder explained the applicant claimed he did not understand that revised plans needed to be returned to the Architectural Review Board (ARB) for final review prior to submittal of fully working drawings to the Building Division. SP Linder noted that recent progress by the applicant coupled with the six-month extension of time request would bring the project into compliance with the City's development processing expectations. SP Linder called attention to Exhibit "B" of Resolution No. 06-01, with recommendation for the following date changes:

IV. BUILDING PERMIT SUBMITTAL

FY 2005-06 (8 units) ~~August 15, 2005~~ February 15, 2006

V. BUILDING PERMITS

Obtain building permits

FY 2005-06 (8 units) ~~September 30, 2005~~ May 15, 2006

Commissioner Davenport asked if the request is applicable to eight of the 36 units only? SP Linder responded that the applicant is asking for the extension of only those eight. Commissioner Mueller reminded that the applicant will build nine units including a BMR.

Commissioner Acevedo asked if specific findings are required in requests for extensions of time? SP Linder explained the policy dealing with the matter.

Commissioner Mueller commented that several things required to be on the drawings were not in place yet, e.g., BMRs, etc. had not been labeled. SP Linder said the City is still waiting for the plans to be finalized, but noted, "The biggest hurdle is have the revised elevations in place with the ARB. The Board wants to see those but the plans are not there [to the ARB] yet."

Chair Lyle opened the public hearing.

The applicant, Don Lapidus, 991 Solana Ct., Mt. View, spoke to the Commissioners and reiterated the reason for the request. Responding to questions from the Commissioners, Mr. Lapidus said he readily accepted the revised timelines, having actually suggested those dates. He also addressed the issues of the DeNova building and the involvement of

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the Delco Corporation. Chair Lyle explained that the questions were resultant from previous experience with Delco completing projects. Mr. Lapidus said, "I don't think they would have hired me if they were not serious." Mr. Lapidus went on to tell of plans for getting the project completed.

It was ascertained by Bill McClintock of MH Engineering and SCE Creer that the Public Works Department had approved the submitted plans and the project could move forward to the ARB and Building Department.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-01, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA 05-09 FOR APPLICATION MP 02-06L E. DUNNE-DEMPSEY (DELCO) TO ALLOW FOR A SIX-MONTH EXTENSION OF TIME FOR SUBMITTING AND OBTAINING BUILDING PERMITS FOR 8 (EIGHT) ALLOCATIONS RECEIVED IN THE 2003 RDCS COMPETITION, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND WITH MODIFICATION TO EXHIBIT B:

IV. BUILDING PERMIT SUBMITTAL

FY 2005-06 (8 units) ~~August 15, 2005~~ February 15, 2006

V. BUILDING PERMITS

Obtain building permits

FY 2005-06 (8 units) ~~September 30, 2005~~ May 15, 2006

COMMISSIONER BENICH SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

2) ZA-05-07/ SD-05-07/ DA-05-05: CENTRAL-DELCO

A request for approval of a precise development plan, subdivision and development agreement for a 39-lot single family attached development proposed on a 5.46 acre site located on the east side of Butterfield Blvd., north of Central Ave. at the northerly termination of Calle Mazatan.

SP Linder gave the staff report on the 39 unit single family development noting that the request deals with the dwelling units to be completed in three phases. She said the project layout needed some changes to better aggregate the open space area. Staff has worked with the applicant to achieve the same amount of open space but in a different location. SP Linder reported, that staff is looking for compliance with the commitments made under the RDCS application process. This project committed to the requirement for 50% of the garages have alternative placement (only model 6 presently meets the alternate garage criteria) and that a repeat factor of 3.5 or less. Presently, SP Linder said, there are 6 models with two of the models having one elevation each. The project will be required to provide additional elevations for models one and two in order to meet the repeat factor commitment. SP Linder went on to explain that a phasing plan should be provided.

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There will also be phasing for park improvements as recommended all three phases. SP Linder detailed the changes to the overall map and noting the consistency with setbacks and lot sizes.

SP Linder turned to modifications in the Development Agreement:

Page 8: k (i) ~~\$3,300~~ **\$1,100** [staff will verify for correctness]

Page 21:

II SITE REVIEW APPLICATION

Application Filed: ~~3-31-06~~ **5-30-06**

Final Map submittal

FY 2006-07 (19 units) ~~02-28-06~~ **07-30-06**

Ensure a 9-month time span between building permits and commence construction

[1st full paragraph, line 3] ~~six (6)~~ **two (2)**

Chair Lyle noted that in Resolution No. 06-02 on page 2, a correction was necessary: (2)
4 3.5

Commissioner Mueller asked about the presence of existing wells {unknown; not present}.

SP Linder clarified – in response to a question from Commissioner Mueller – that this application has modified detached single family in this zoning district, and such is allowed under the current Ordinance.

Commissioner Benich noticed that in Exhibit “A” Standard Conditions, page 12 XIV C, a 10-year flood should be listed.

Commissioner Mueller spoke on the ‘micro’ project just to the west of the subject property saying, ‘which by all rights should be part of this project’ and asking if the developer is ‘setting it up so the micro part of this HOA. PM Rowe advised the Commissioners could condition this project to have the micro be part of this HOA so both could benefit. Commissioner Mueller pointed out the common area which adjoins the two developments, suggesting that the development agreement be so conditioned and have the CC&Rs applicable to both projects.

Commissioner Mueller said he was having difficulty ascertaining where the BMRs and moderates were located on the map. SP Linder said that with some trouble she had figured out BMRs on the map. SP Linder said that regarding the staff recommendations of phasing of the improvements, staff felt the map should clearly indicate the location of the BMRs and moderates as recommended by Commissioner Mueller. Other Commissioners agreed.

Chair Lyle spoke on Schedule B, noting that in the narrative if the developer does not perform within 6 months s/he must pay a double fee and adding he thought six months was too much time. “It needs to be closer time wise,” Chair Lyle said.

Chair Lyle opened the public hearing.

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Vince Burgos, Development Processing Service, San Francisco, raised the following points:

- phasing is consistent with how applicant wants to proceed
- BMRs identified but not shown [data to be provided]
- BMRs conform to criteria
- elevation - with mix - can be applied in a simple manner formula and once worked out will be seen to have multiple elevations
- side loading garages [in the application for the original Measure C the different variation was acceptable) did provide garages behind the front elevation for most of the plans ('three and four, for example'); now we have garages behind the porches
- difficulty with having garage in the rear while meeting the 50% requirement

Mr. Burgos reminded that it had been necessary to show the attached dwellings as modified under discussions of the emergency Ordinance. "We attached then, but knowing the Ordinance was to be sun setting, the Ordinance was subsequently extended through change." Mr. Burgos pointed to the fact that the single family dwellings are detached by 6 feet and increased by 50%. "I think the set back still satisfies the 50% requirement," Mr. Burgos said.

Chair Lyle asked Mr. Burgos about the (proposed) revised schedule. Mr. Burgos said, "It appears to be ok, but any changes in working with the architect could delay the process." SP Linder responded, "Just recessing the garage doesn't meet the requirements," as she explained how to meet the requirements.

Commissioner Acevedo asked who the owner is of the property shown as undeveloped on the cul-de-sac. Mr. Burgos said it is owned by Cox and is a remnant; he also said that with the development of that property, it might be possible to form a HOA joining the two projects.

Replying to a question from Commissioner Koepp-Baker in consideration of how the garages behind could be redone, Mr. Burgos told his ideas for redesign. Chair Lyle asked the impact of redesign to the units. Mr. Burgos said he would have to do 12 units at a time and 'time wise – easily it could be a month to get the plan approved before working drawings are completed. "We really are at the mercy of the architect's schedule," Mr. Burgos explained.

Commissioner Benich requested clarification of the possibility of a common fence for the southern boundary of this property. Mr. Burgos said that would eventually occur.

Chair Lyle referenced the development schedule with Mr. Burgos saying they want to start this spring.

With no others present to address the matter, the public hearing was closed.

Discussion ensued regarding:

- needed changes to the garages for compliance
- changes in development schedule: dates given
- confusion with timelines between building permits >>>commence construction

COMMISSIONERS MUELLER/BENICH MOTIONED APPROVAL AND ACCEPTANCE OF THE MITIGATED NEGATIVE DECLARATION INCLUDING ELIMINATING LANGUAGE INDICATING 'DETACHED SINGLE FAMILY' FROM THE PROJECT DESCRIPTION, TOGETHER WITH THE MITIGATION MONITORING PROJECT AS DETAILED BY STAFF. THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-02, RECOMMENDING APPROVAL OF A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.5 ACRE SITE LOCATED ON THE NORTH SIDE OF EAST CENTRAL AVE. AT THE NORTHERLY TERMINATION OF CALLE MAZATAN, WITH THE FOLLOWING MODIFICATION:

Page 2: (2) 4 3.5

COMMISSIONER BENICH NOTED THE FINDINGS AND CONDITIONS IN THE RESOLUTION AS HE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-03, APPROVING A TENTATIVE MAP FOR A 39-LOT SUBDIVISION ON A 7.5 ACRE SITE LOCATED ON THE EAST SIDE OF BUTTERFIELD BLVD., NORTH OF EAST CENTRAL AVE. AT THE NORTHERLY TERMINATION OF CALLE MAZATAN WITH THE FOLLOWING MODIFICATIONS:

Page 3: XV. C 10-year flood

Page 21 [PG&E title]: XXIII. Other Conditions *check all; and add and check: A-Z and add a requirement to require the HOA include Cox property to the south HOA, which will include the Cox property to the west of the subject property*

And THE SUBDIVISION MAP IS TO INCLUDE {CLEAR} LABELING OF LOCATIONS OF BMRs, MODERATES AND SINGLE FAMILY HOMES, AS WELL AS INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER BENICH SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-04, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-05-05 FOR APPLICATION MP 04-14: CENTRAL-HU (DELCO) INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN AND WITH THE FOLLOWING MODIFICATIONS:

Exhibit "A", Page 8: k (i) ~~\$3,300~~ \$1,100 [staff will verify for correctness] Page 21:

II SITE REVIEW APPLICATION

Application Filed: ~~3-31-06~~ 5-30-06

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Final Map submittal

FY 2006-07 (19 units) ~~02-28-06~~ 07-30-06

[1st full paragraph, line 3] ~~six (6)~~ two (2)

and language inserted to indicate that the CC&Rs to provide for annexation of future project (Cox) to HOA

THE MOTION WHICH WAS SECONDED BY COMMISSIONER BENICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

**3) ZA-05-16/
SD-05-09/
DA-05-07:
WRIGHT-
MAÑANA**

A request for approval of a precise development plan, subdivision and development agreement for a 15-lot single family attached development proposed on a 2.65 acre site located on the northwest corner of the intersection of Wright Ave. and Hale Ave. The site is zoned R-2 3,500 Medium Density Residential. A mitigated Negative Declaration is proposed.

SP Linder presented the staff report saying this application includes single family detached dwellings which shows a 'great job of project layout'. SP Linder spoke on the requirements for the detention pond due to the standing water at Wright and Hale as she told Commissioners that the Santa Clara Valley Water District has detailed the drainage mitigation needs and also noted that an access road for the Water District is to be part of the frontage improvements. Additionally, SP Linder said, the on-site detention will be underground piping plus the pond. SP Linder explained the pepper trees are scheduled for removal due to the location of the trees in the right-of-way and are to be replaced with 24-inch box trees. She also noted that along with the 'very generous storm drain plan' there will also be a park and other amenities for the homeowners. SP Linder said that the Planning Division will be looking at the phasing plan which includes six (6) allocations phase and asking for a site plan modification which is the reversal of the unit proposed on lot one so that the proposed driveway can be located farther from the intersection. SP Linder continued, telling the Commissioners of the BMR and moderate rate unit locations which she indicted were 'a proportionate share in phase 1. There is intent, SP Linder said, to have the Water District improvements as part of phase 1 and installation of the park during phase 2. "Finally," SP Linder said, "there are corrections to the development agreement, page 20, Exhibit "B" as follows:

III. FINAL MAP SUBMITTAL

FY 2006-07 (6 units)

~~2/28/06~~ 6/30/06*

IV. BUILDING PERMIT SUBMITTAL

FY 2006-07 (6 units)

~~6-15-06~~ 9/30/06*

V. BUILDING PERMITS

FY 2006-07 (6 units)

~~9/30/06~~ 5/30/07*

***Developer request due to have to coordinate with SCVWD, Army Corps and the Morgan Hill Public Works Department.**

[1st full paragraph, line 3] ~~six (6)~~ two (2)

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SCE Creer was asked to address the storm drain in the area.

Commissioner Koepp-Baker said it was important not to drive the water onto Hale Ave. Addressing the challenge of planning for the large watershed, SCE Creer said he and others in the community were concerned of the results of flooding in 1940s and 1950s, noting improvements which have been put in upstream. He said, "This project will build another part of the project downstream but there still will be some problems but those can be handled as part of the mitigation."

Commissioner Mueller stated the opinion that the box culvert was fairly well blocked due to a restriction in it. SCE Creer acknowledged that at some point a sewer pipe had been instated at the bottom then abandoned and with a concrete hump over it poured over it to ostensibly seal the pipe. Commissioner Mueller asked if such restriction makes flow difficult downstream. SCE Creer told of the area with narrowing of the channel between Main and Wright with an area smaller downstream.

Commissioner Koepp-Baker asked about widening the road at the intersection. Chair Lyle commented that the possibility of a right turn lane would help. SCE Creer indicated that the proposed improvement could facilitate such a turn. Considerable discussion followed regarding potential turn lanes and traffic flow patterns at the site.

Chair Lyle opened the public hearing.

Ervin R. Heinrich, 230 Wright told of problems with the box culvert and provided information regarding the installation and subsequent capping of the sewer pipe at the box culvert location. Mr. Heinrich explained his experiences with the water flow during the years he had lived in the area. "The water situation is becoming worse," Mr. Heinrich declared. "I don't think putting in storm drainage will do the job. The water flows down the mountain to the basin and floods the area before trying to flow out." He expressed doubts as to a successful outcome to the plan presented.

Dick Oliver, 385 Woodview, #100, told the Commissioners that the phasing solution presented by staff is acceptable to him (the applicant). Mr. Oliver highlighted for the Commissioners that a major problem he has is that the storm drainage applications must be submitted to four different agencies (Santa Clara Valley Water District, Corps of Engineers, City of Morgan Hill, etc.). The answers received from those agencies have sometimes been conflicting, Mr. Oliver said. "The Water District doesn't like the pipe we proposed and wants a detention basin within the 2.5 acre site." Mr. Oliver said that regarding the flood matter resolution process with the City, the Corps of Engineers, and the Water District has been on-going for 10 years. "We're all happy this application is starting," Mr. Oliver said, adding, "We will meet our requirements."

Mr. Oliver went on to speak to the issue of moving the pepper trees. "I understand that the pepper tree is not desirable as a street tree but we have told the neighbors they could have the pepper trees as those folks have been watering the pepper trees across the street."

Mr. Oliver called attention to the Development Agreement, page 8, Housing Needs and spoke on the phases of the development with the commitments for percentages made. Mr. Oliver said that when the phases become smaller, odd numbers for the BMRs and it became necessary to 'round up'. "I want to be careful of not getting into a box with the

BMRs so that I might be required to do more than I committed in the application.”

Mr. Oliver recalled the previous agenda item and asked that the Standard Conditions, page 12, **Page 3: XV. C 10-year flood** and the Schedule on Exhibit B be altered as described in the staff report.

Bill McClintock, 16075 Vineyard Blvd., MH Engineering, explained that the drainage calculations were completed and submitted to the Water District . Mr. McClintock said the requirements of a 100-year flood have the same volume and the project would not be made worse with the proposed work. “We will be excavating fairly deep,” Mr. McClintock said, and explained that: “During ‘normal storms’ there is flooding due to the constriction of having a 36-inch pipe funnel to a 4-foot culvert. We need to plan for moving and increasing the size of the culvert which will lessen the flooding in storms.” Mr. McClintock spoke ten on the long range water plan in which the Water District is working on replacement of the box culvert so there will be an improvement for conveyance of water through all downtown.” He reminded that the project had been designed by the Corps.

Commissioner Mueller said the thought the project should result in an outcome better than now exists.

PM Rowe said it appears the runoff from this project is being handled.

Ken Kotyuk, 17941 Oak Grove Drive, told of ‘deep concern’ of flood control in the area as he told of 100-year floods in the area and problems with insurance as a result. Mr. Kotyuk explained that the ‘Hale and Wright incline’ causes water to come into the development on Llagas Ave.. Mr. Kotyuk agreed with a previous speaker who likened the area to a funnel. Mr. Kotyuk explained he is a mechanical engineer and knew, “If something is not done beneath the road problems will occur. Mr. Kotyuk said it appears that a solution has not been well thought out and cited that the City cannot look to the State for help with the project for at least 5 – 7 years. Mr. Kotyuk said the neighborhood appreciated the pepper trees and would like to see the offer from Mr. Oliver for donating the trees to the neighbors if possible.

Commissioner Benich said he was not against the project but thought perhaps it should be delayed until firm resolution of the flood issues could be identified.

Commissioners discussed:

- importance of not getting standing water at the Hale/Wright intersection
- need for ‘thinking the project through’
- need to reduce liability

With no others to speak to the matter, the public hearing was closed.

Responding to a question from Commissioner Mueller, SCE Creer said a goal of flood control is to not aggravate a current situation nor make it worse. SCE Creer explained that MH Engineering is to provide the information regarding excavations. SCE Creer said that previously not all City staff had been aware of the 36-inch pipe funneling into the box culvert. He reminded that there is still a real need for PL 566 with the federal government taking the lead in solving the problem. SEC Creer also stated that the City cannot make changes in this location without negatively affecting downstream areas and

that is not allowed.

Commissioner Mueller informed that the Santa County Valley Water District and the City of Morgan Hill continue to work together to try to keep PL 566 'alive'.

SCE Creer said that **PL566** excavation efforts were assisted by developers who would provide digging in exchange for being allowed to haul the dirt.

Commissioner Koepp-Baker reminded she lives in the region under discussion and indicated a concern that while there is water in the creek bed an even momentary deluge prohibits the water being absorbed with resultant flooding over a widespread area.

SCE Creer talked about specific sites and water pooling. He also pointed out that the springs in the area had been sealed.

COMMISSIONER MUELLER/CHAIR LYLE MOTIONED ACCEPTANCE AND APPROVAL OF THE MITIGATED NEGATIVE DECLARATION TOGETHER WITH THE MITIGATION MONITORING PLAN AS PRESENTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, LYLE, MUELLER; NOES: DAVENPORT, who had objection to continuing the project in a 'piecemeal fashion thereby rendering the environmental assessment deficient'; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-05, SECTION 6, RECOMMENDING APPROVAL OF A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 2.65 ACRE SITE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF WRIGHT AVE. AND HALE AVE., INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THERE, AND WITH THE FOLLOWING MODIFICATION TO SECTION 6, 93):

.....~~reversed~~ *revised* to locate the drive way away from corner

THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, LYLE, MUELLER; NOES: DAVENPORT, who had objection to continuing the project in a 'piecemeal fashion'; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONERS MUELLER/ACEVEDO OFFERED RESOLUTION NO. 06-06 APPROVING A TENTATIVE MAP FOR A 15-LOT SUBDIVISION ON A 2.65-ACRE SITE LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF WRIGHT AVE AND HALE AVE. INCLUSIVE OF THE FINDINGS AND CONDITIONS AND WITH THE FOLLOWING MODIFICATION:

Page 12, XV. C: *10-year flood*

THE MOTION carried by THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, LYLE, MUELLER; NOES: DAVENPORT, with objection of having the project completed in 'piecemeal'; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION 06-07, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-05-07 FOR APPLICATION MP 04-27: WRIGHT AVE – DIVIDEND, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND WITH THE FOLLOWING MODIFICATIONS:

Page 7, k,(i): ~~\$3,300~~ \$1,100 [staff will verify for correctness]

Page 8, j (iv) a certificate of occupancy will be issued for the 6 units as requested by the developer and recommended by planning staff,

Exhibit “B”:

III. FINAL MAP SUBMITTAL

FY 2006-07 (6 units)

~~2/28/06~~ 6/30/06

IV. BUILDING PERMIT SUBMITTAL

FY 2006-07 (6 units)

~~6-15-06~~ 9/30/06

V. *OBTAIN* BUILDING PERMITS

FY 2006-07 (6 units)

~~9/30/06~~ ~~5/30/07~~ 3/30/07

[1st full paragraph, line 3] ~~six-(6)~~ two (2)

4) FY 2005-06
RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)
COMPETITION
FINAL SCORING/
PUBLIC
HEARINGS:

COMMISSIONER ACEVEDO SECONDED THE MOTION BY NOTING THE CERTIFICATE OF OCCUPANCY IS NOT TO BE GRANTED FOR A BMR AS THE 6TH UNIT. THE MOTION PASSED WITH VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, LYLE, MUELLER; NOES: DAVENPORT, who reiterated objections to having the project completed ‘piecemeal’; ABSTAIN: NONE; ABSENT: ESCOBAR.

PM Rowe presented the staff report, advising the Commissioners of adjustments to the applications as a result of the discussion of the six ‘global issues’ at the December 14, 2005 Commission meeting. The categories under debate were highlighted on the first two pages of the staff report. PM Rowe called attention to page 2, 5b: indicating that the applicants provided clarification at the meeting that 100% referred to the percentage of building siding that would be constructed of non-combustible materials and further indicating that the scoring adjustments had been given those projects under question.

Noting that the Schools Category had been scored by the representative of the school district, PM Rowe offered explanation for the classroom space requirements within a project application (for tutoring, etc.). He clarified that the standards were not published and consequently the applications under inquiry should receive at least partial credit. [The issue had been raised regarding the school’s requirement of 960 sf., but with one application proposing 478 sf and another having the classroom off-site on an adjacent project.] Considerable discussion ensued regarding the requirements set by the school and the need for criteria revision for future competitions. CDD Molloy Previsich advised that Planning staff is recommending for the current competition that partial credit be given if the application indicates less than 960 sf for the classroom facility.

PM Rowe continued, noting that MC-05-10 and -11 both have plaza/courtyard space above street level. He advised that staff had verified the calculations of those spaces and reported the coverages, asking if the Commissioners felt partial credit should be given for the spaces above, but not in relation to weight given for the ground floor plaza/courtyards. Significant dialogue resulted with a consensus being that the upper level open space warranted points, but not to the extent of plaza/courtyards on the ground level.

Chair Lyle reminded that the Commissioners were supposed to be voting on the Commission's 'excellence point' and noted that some categories are 'maxed out' so an excellence point would not alter the outcome. PM Rowe advised that the excellence point awarded by the Commissioners on recommendation of the Subcommittee for Criteria was to be moved – from Quality of Construction to Livable Communities. Commissioners present agreed that the scoring would be logical in that category. Commissioners also agreed that the excellence point would be decided on a rank scoring by vote of each Commissioner to be considered cumulatively.

AFFORDABLE COMPETITION:

Turing to the Affordable Competition, Chair Lyle noted the two applications in this category were both above the minimum to be granted allocations.

Chair Lyle opened the public hearing.

With no persons present indicating a wish to speak to the matter, the public hearing was closed.

It was noted that even if a point loss occurred as a result of reconsideration of the Schools category, it would not result in a rank change in his category.

VOTING CONCLUDED FOR THE EXCELLENCE POINT WITH MC-05-02 RECEIVING 1 POINT, AND MC-05-09 RECEIVING NO POINTS.

Total scores for this category:

Application #	MC-05-02	MC-05-09
Total points	181.5	159.5

DOWNTOWN OPEN MARKET COMPETITION:

Chair Lyle opened the public hearing for the Downtown Open Market Competition.

Charles D. Weston, 540 W. Dunne, representing two of the project under consideration, said that regarding the schools requirement of 960 sf, he had – at the exit conference – spoken with the person responsible for scoring for schools who did not know of the criteria of Measure C and had indicated that a hasty decision had been made for 960 sf. Mr. Weston said that when the criteria is reconsidered, it shouldn't be 960 sf as that would be a huge room says for a 6-unit development. "960 sf would be for 49 kids. If 8 – 15 of these units were spread over downtown need it would be a humongous amount of space for the school to have control over."

With no other person in the audience indicating a desire to speak to the matter, the public hearing was closed.

Commissioners agreed with Mr. Weston as they reiterated the following:

- 960 sf not reasonable
- common sense is needed in ascertaining place for studying
- school is responsible for staffing, and may be looking to place personnel

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- rooms of adequate size are needed for cost effective use of MHUSD personnel
- 960 sf may not be reasonable in small units
- combining projects (two adjacent properties/applications) for more efficient classroom placement

PM Rowe reminded that the standard for classroom space had not been published and therefore Planning staff was hesitant to penalize on that basis. Commissioner Mueller said he leaned toward giving points (2) on basis of commitments made by the applicants.

Commissioner Acevedo agreed that 960 sf offers a ‘big room’ while reminding that the applications are allowed to get 25 points in Schools and therefore the applicants could ‘pick and choose’ the requirements/commitments for points in the category. Commissioner Acevedo recalled that according to Mr. Weston, the School District was not clear either in presenting the criteria. Commissioners continued to discuss the matter with a straw vote occurring and all Commissioners present - except Commissioner Acevedo – agreeing that the full two points would be conferred in the school space matter. **CONSEQUENTLY, IN THE SCHOOLS CATEGORY, MC-05-10 WAS TO RECEIVE 21.5 POINTS IN THE SCHOOLS CATEGORY.**

Turning to the open courtyard areas in 2nd floor space, Commissioners raised the following:

- criteria is clear that an application should not get points (MC-05-10)
- partial points for open space on 2nd or 3rd story
- criteria clear trying to preserve community open space
- nice to see light through 2nd story
- courtyards open above were not counted as building coverage
- criteria did not acknowledge 2nd/3rd floor plaza/courtyards
- must be community access
- common areas versus community access
- key: whether open space is worth as much above (2nd floor +) as on the ground floor need for weighing for decision
- criteria for ‘ground floor’ open space (read by Chair)
- high density areas needs to drive building coverage area down
- common open space adds to quality of living
- suggestion of ½ credit (as if ground cut in half)
- lack of definitive criteria tends toward inclination to more than half of possible score possibility of averaging space for percentage point

Chair Lyle opened the public hearing regarding points for the Open Space category relating to 2nd (and above) stories.

Mr. Weston advocated that MC-05-10 and MC-05-12 should receive the maximum points as there was intent to build the projects at the same time but provide flexibility for design as well.

Chair Lyle announced that he had sent a memo to Planning staff on December 2, 2005 which had increased the score by for MC-05-10 by 9 points.

Mr. Weston said the courtyard is a state of art and the design is new for him. “Having the courtyard as community access is the equivalent to a housing project having open space. We need an environment that is appealing and in this design we are providing something

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nice for entertaining.” Mr. Weston said that if there was an underestimation of meeting the criteria that would be unfair.

Rocke Garcia was present and told Commissioners he agreed with Mr. Weston that the 2nd floor open space attributes to a project. “Don’t change in midstream,” Mr. Garcia urged. He told of spending dollars on the downtown plaza project in which he is involved and that contains open space. “While I have no objection to points for Mr. Weston's project I feel you need to look hard and be clear for giving points not in the criteria.”

With no others indicating a wish to speak to the matter, the public hearing was closed.

Commissioners discussed the matter thoroughly and ultimately **awarded 5 points in the Open Space category.**

Discussion continued regarding:

- scoring in specific categories
- potential of giving credit for walking through the garage
- scoring for hard wring
- lack of limit to number of units for formation of Neighborhood Watch group

PM Rowe told of adjustments in various categories to the Downtown Open Market Competition.

Chair Open for all speakers to individual projects in the Downtown Open Market Competition.

Bill McClintock addressed Mc-07 (Myrtle/Latala) asking for the excellence point from the Commissioners. “This project was designed for 6 units and we want to build 3.”

Chair Lyle said it had not been made clear if a request was being made for 3 replacement units. He also reminded that credit had been given for 1 existing unit. Mr. McClintock said there was intent to ‘recreate’ lots. PM Rowe clarified that it would be possible for 3 units to be created through lot line adjustment and the credit was for one existing unit.

Bill McClintock said this project did get high points in Orderly and Contiguous, was also one of highest in Housing Needs and in 3 categories got maximum points. “This is a good project and ready to go,” Mr. McClintock said. He told of the design from the architect and said the excellence point could make a difference.

Mr. Weston clarified that he would like to commence building MC-05-10 in FY 07-08.

With no others to address the matter, the public hearing was closed.

Commissioners commenced discussion and resultant vote on the ‘Excellence Point.’

Application:	-05	-06	-07	-08	-10	-11
Point awarded	0	0	0	1	0	0

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Commissioners continued discussion of the applications:

- in future forbid security gate restricting open space/public access
- midblock access
- restricting access from public to privately owned open space
- potential of bridge at midblock crossing
- lot layout [page 51 #7: parking issue]
- reduced city parking requirements
- ‘shared’ projects on adjacent property

At the request of Mr. Weston, Chair Lyle reopened the public hearing.

Mr. Weston spoke again regarding MC-05-10 saying the project would be ‘significant’ in downtown, adding to the ability of downtown to compete and be viable. Mr. Weston also said the criteria should have some element of discretion and said he thought the Commissioners should look at the significance of densifying downtown, as he declared intent to write to the City Council for further review.

The public hearing was closed.

PM Rowe and CDD Molloy Previsich tabulated the revised scoring with the totals being:

Application:	-05	-06	-07	-08	-10	-11
Total points	178.5	174.0	159.0	177.5	158.5	165.5

Commissioner Acevedo was excused at 10:25 p.m. due to the potential for conflict of interest as he has a business in the area.

SMALL VERTICAL MIXED USE COMPETITION:

Chair Lyle opened discussion on the Small Vertical Mixed Use Competition with a vote by the Commission for the excellence point was conducted.

Application:	-03	-04	-012
Total points ⁺	164.0	171.5	168

⁺ All the applications in this category had been ‘maxed out’ for points; consequently the excellence point did not matter for the final score. Only MC-05-04 received the excellence point from the Commissioners present;; Acevedo and Escobar were absent.

Commissioner Acevedo resumed his seat at 10:29 p.m.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 06-08, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AFFORDABLE PROJECT COMPETITION FOR THE FISCAL YEAR 2007-208 AND 2008-2009 BUILDING ALLOTMENT. COMMISSIONER MUELLER SECONDED THE MOTION, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION PASSED WITH THE FOLLOWING VOTE: VOTE: AYES:

ACEVEDO, BENICH, DAVENPORT, KOEPP-BAKER, LYLE, MUELLER;
NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 06-09, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM DOWNTOWN OPEN MARKET PROJECT COMPETITION FOR THE FISCAL YEAR 2007-2008 AND 2008-2009 BUILDING ALLOTMENT AS AMENDED DURING DISCUSSION AND WITH THE FINAL POINT TOTALS FOR EACH APPLICATION HAVING BEEN ANNOUNCED AS NOTICED ABOVE. COMMISSIONER BENICH SECONDED THE MOTION, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION PASSED WITH THE FOLLOWING VOTE: VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

Commissioner Acevedo was excused at 10:33 p.m. due to the potential for conflict of interest on a vote of the resolution as he has a business in the area.

COMMISSIONER MUELLER OFFERED RESOLUTION 06-10 WITH THE TOTAL SCORE AMENDED BY THE EXCELLENCE POINT, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM SMALL VERTICAL MIXED USE COMPETITION FOR THE FISCAL YEAR 2007-2008 AND 208-2009 BUILDING ALLOTMENT. NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER BENICH SECONDED THE MOTION. THE MOTION PASSED WITH THE FOLLOWING VOTE: VOTE: AYES: BENICH, DAVENPORT, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO, ESCOBAR.

Commissioner Acevedo resumed his seat with the Commissioners at 10:35 P.M.

**5) PROCESS
CONSIDERAT-
IONS RELATED
TO CURRENT
RDCS
COMPETITIONS/
CRITERIA FOR
AWARD OF
ALLOTMENTS
FROM FY 2009-10/
CREATION OF
PC SUB-
COMMITTEE TO
WORK WITH
STAFF RE:
PROPOSED
AWARD
SCHEDULE AND
FINDINGS**

CDD Molloy Previsich presented the staff report, calling attention to the information presented in a Letter to Applicants – and other interested parties – regarding:

- current ‘RCDS’ Downtown, Vertical Mixed Use and Affordable competitions
- process for awarding 2008-209 and 2009-2010 allotments
- possibility of ballot measure to facilitate downtown housing projects
- process for determining schedule for future competitions info presented in letter sent out ballot measure for construction of downtown housing units

CDD Molloy Previsich noticed the first workshop would be held on January 13, 2006 commencing at 8:00 a.m. with input being solicited from the stakeholders and the Commissioners. “We’re trying to get more detail of commitment of construction by 5:00 p.m. tomorrow,” she explained. CDD Molloy Previsich indicated the Commissioners will be asked to help sort through the returned questionnaires to establish specific findings for fiscal year allotments for FY 2009-10 and thus a Subcommittee of the Commission is to be named to work with Planning staff.

CDD Molloy Previsich clarified that the City Council had authorized formation of the subcommittee. The City leaders have indicated it may be necessary to reach into the third year in accordance with the RDCS Ordinance (if needed) to get a project started and completed. It was clarified that a dip can be made into future year’s allocations (3rd year)

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for applications which have received a passing score. CDD Molloy Previsich probably that many allotments in FY's 07/08 & 08/09 had been reserved for downtown projects, and continuing to do that for a third year (09/10) was a concern with members of the community. She stress it won't be known what effect on the downtown will be as it is still necessary to sort through the responses being received. Recalling that the Commissioners are charged with awarding allotments it will be necessary to study the financing for some of the downtown projects which may need to be fully allocated. "But," she cautioned, "we need to sort out the issues, including the responses to the letters, before we know how deep we are - and can go - into 09-10. We will be sorting through many issues which must be sorted through before the City Council can even consider a ballot measure and that has not yet been contemplated."

Commissioners discussed with Planning staff and CDD Molloy Previsich:

- downtown allocations may slow up projects in other areas of city
- considerations of future competitions – will there will be enough allocations to have competition
- outline of future steps
- alternatives for ballot measure: put downtown off to side and reconsider other competition effect on rest of City
- numbers of non performance in prior reallocations [very low]
- City Council has put applicants on notice that true commitments are anticipated; if not the allotments will be reallocated

Chair Lyle opened the public hearing.

Maureen Upton, 8389 Church St., Suite 209, representing the Diana Chan development, said the implications of the questionnaire and the possible ballot was of high importance for downtown. "If all the application requests for allocations are approved at once and then all are completed according to schedule, can the downtown absorb those numbers?" Ms. Upton asked. "It might be better to have the top scoring applications get allocations. Perhaps with a smaller number of smaller units the absorption rates might result in having projects completed timely." Ms. Upton said that if allocations are taken from 09-10, the result might be considerable duress on existing projects as well as financial crises. Ms. Upton told of the competition of Measures P and C and wondered that if allocations were not available because of the downtown set-aside whether it would be realistic to have existing projects slowed. Ms. Upton warned this might set a 'dangerous precedence' as she urged the Commissioners to consider eliminating problematic consequences before proceeding. Ms. Upton concluded by asking if the development community would have representation on the proposed subcommittee.

Dick Oliver spoke to the Commissioners asking they not forget that Measure C requires 1/3 of the allocations to be single family units. Mr. Oliver stated, "By focusing on downtown, there appears to be no discussion of on-going projects that are not fully allocated. He listed the projects, saying that of the seven 'on the one books' one is older and the remaining six newer for a total of 240 allocations needed plus the Madrone projects all of which need allocations for projects started or being started.

With no other person in the audience indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Acevedo announced that in communicating with the Fair Political Practice

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Commission (FPPC) and the City Attorney as a result of concern considering the location of his business downtown, he had ascertained he could vote on everything except decisions involving planning matters on property within 500 of his business. Commissioner Acevedo further stated that in continued discussion with the City Attorney - who had asked that Commissioner Acevedo have the staff of FPPC communicate with City Officials - he would not be eligible to sit on the subcommittee either.

CDD Molloy Previsich clarified that job of the responded subcommittee would be to go through the questionnaires and should be limited to Commissioners and staff. She further indicated that the potential ballot measure has a subcommittee of City Council members who have public meetings. CDD Molloy Previsich emphasized that attendance of Commissioners at public meetings, cautioning against Brown Act violations.

Following discussion of meeting times and attendance requirements, Commissioner Mueller and Chair Lyle were named to the subcommittee. CDD Molloy Previsich was charged with meeting arrangements. Commissioner Mueller said it would be good 'to think about 3rd street' as well.

Further discussion followed regarding:

- appeal process to the City Council as a result of allocation award
- not all projects might get allocations
- confusion of terminology in the questionnaire letter (no comments had been transmitted to staff

ANNOUNCEMENTS: Sympathy was extended to the family of the Escobar Family on the death of the Commissioners father.

ADJOURNMENT: Declaring there to be no further business to come before the Commission at this meeting, Chair Lyle adjourned the meeting at 11:03 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk